

CITY OF NEWTON

IN BOARD OF ALDERMEN

POST AUDIT & OVERSIGHT COMMITTEE REPORT

TUESDAY, MAY 24, 2011

Present: Ald. Swiston (Chair), Lennon, Sangiolo, Rice and Shapiro

Absent: Ald. Schnipper, Johnson and Freedman

City Staff: Lou Taverna, City Engineer; Anne Phelps, Senior Environmental Planner Conservation Commission; John Daghlian, Associate City Engineer; Dave Turocy, Interim Commissioner Department Public Works and Fred Russell, Director of Utilities Department of Public Works

REFERRED TO POST AUDIT by ZONING & PLANNING COMMITTEE on 04/25/11

#114-10 ALD. YATES AND RICE requesting reports from the Conservation Commission and Board of Survey on compliance with condition of permits given to allow the development of the Laura Road subdivision. [04/07/10 @ 10:59 PM]

ZONING & PLANNING REFERRED 6-0 (Baker not voting) on 04/25/11

ACTION: RECOMMEND TO HOLD 3-0, Ald. Lennon and Shapiro not voting

NOTE: Ald. Rice explained that the heavy rains in March 2010 brought flooding situations in the Laura Road area to his and Ald. Yates attention. Flooding occurred in almost all of the yards and basements in that area and at the end of Rokeby Road. The Laura Road subdivision was created by a special permit to create access to property between Rokeby and Irwin Roads with approval of the Planning Board acting as a Board of Survey as well as the approval of the Conservation Commission. It appears by observation the subdivision changed the flow of water forcing water into these residents yards and basements.

Chairman Swiston asked when the subdivision was built. Ms. Phelps said the subdivision was approved in 1994, built through 2000 and the first certificates of occupancy were issued in 1998. The project was in compliance at the time certificates of occupancy were issued and she feels the project is still in compliance. The subdivision is recorded at the Registry of Deeds.

Ms. Phelps reported that dumping of debris was evident in the area. This likely exacerbates the situation and may clog drainage, damage the vegetation and change the landscape. It is the obligation and responsibility of the homeowners in that area to maintain the wetland and they are responsible for removing any debris. Ms. Phelps noted that she sent out notices to the homeowners regarding dumping in these areas requesting they remove the debris.

Chairman Swiston said it is necessary to determine if the permit and approval process is being met. She then asked if there was a special compliance regarding water flow. Ald. Rice said he would provide Committee members with the existing history on this project. Ms. Phelps said the City has made every effort to rectify the drainage issues. Perhaps modifications of the elevation were made to create replica wetlands and flood zones. She believes water flow patterns have not

changed according to material submitted and approved. Chairman Swiston stated this contradicts observations made.

Chairman Swiston opened the discussion to members of the public. Caren Spital, 65 Rokeby Road, said since developing the subdivision she has had increasing amounts of water in her yard. What use to be a tiny pond appears to be lake size ponding encroaching her property, which never was an issue. Maureen Meagher, 342 Quinobequin Road, pointed on a map areas of concern. She said Laura Road was created over wetlands to build the subdivision. She feels the construction of Laura Road has dramatically increased and changed the amount of water residents' face during storms. Ms. Meagher also provided two e-mails from abutting residents, attached to this report. Valerie Forte, 122 Quinobequin Road, said residents paid fees hoping to avoid the construction of the subdivision.

Ms. Phelps pointed out on a map the existing conditions areas of the wetlands and floodplains. She explained that the state and federal government require no net loss of wetlands. Therefore, if a bordering vegetative wetland is filled, it must be replaced in an adjacent area. Ms. Phelps said it is possible there may have been other wetlands in the area in the past. She said that groundwater rises first, then eventually the ground is saturated running off into the Charles River, then the river rises and floods laterally. Mr. Daghlian said according to his map, he would disagree because water is flowing in a different pattern. Chairman Swiston asked if the water flow is running as designed. Ms. Phelps said the flow patterns appear to be the same before and after construction. Ald. Sangiolo asked which direction the water is designed to flow. She said according to conditions made, water is not flowing correctly. Ms. Phelps felt it is an engineering requirement. Mr. Daghlian said it is a Conservation Commission issue because they have to establish hydraulic connections. Mr. Russell said based on his map and elevations the water is supposed to flow differently according to the invert of the pipe. Chairman Swiston suggested conducting research on the Conservation Commission ruling to understand which way the water is to flow. Ald. Sangiolo asked who has jurisdiction to rectify the water flow problem and what recourse the Conservation Commission or the City could take to remediate this issue. She then asked how an item could be docketed to rectify this problem. Ms. Phelps said she would need evidence. Ald. Sangiolo stated flooding is evidence.

Mr. Daghlian said Laura Road is a private road and the infrastructure there has to be maintained annually by the homeowners. Chairman Swiston stated it is not a requirement of subdivisions to have a home association with single-family homes. Ms. Phelps said it is the property owners' responsibility to maintain drainage and believes it is stated in the Board Order. Mr. Russell said since the lines have been jetted clean and checked, water drainage appears to be better.

Chairman Swiston suggested holding this item pending the following information:

- Request the City's Law Department to determine who owns the drainpipes and who is responsible for maintaining them?
- Lot # 3 has a mystery pipe, are there others?
- Ald. Sangiolo will conduct a Deed search in Cambridge, MA.
- Ald. Rice will provide the existing history.

Anne Phelps provided Committee members with the Order of Conditions, attached to this report.

Ald. Sangiolo made the motion to hold this item until June pending the requested information. Committee members agreed 3-0, Ald. Lennon and Shapiro not voting.

At approximately 9:15 pm, Chairman Swiston moved to adjourn.

Respectfully submitted,

Greer Tan Swiston, Chairman

City of Newton



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue
Newton Centre, MA 02459-1449Setti D. Warren
Mayor

May 12, 2011

To: Alderman Brian Yates

From: David F. Turocy, Interim Commissioner of Public Works

Subject: Irwin Road/Laura Road wetland drainage

During the period of mid-March through mid-April 2011, the Public Works Department completed a drainage improvement project for the Quinobequin Road area that was designed to reduce flooding from the wetlands area between Rokeby Road and Irwin Road/Laura Lane.

The City of Newton has a drain easement from Rokeby Road to the Charles River that was found to be blocked. Flushing from the top of Rokeby Road proved unsuccessful and we were unable to access the drain manhole in the backyards. As a result, the Utilities Division installed a new manhole on the river side of Quinobequin Road in order to better flush the line. We were then able to completely clear the line from the Rokeby Road cul-de-sac to the outlet at the Charles River.

In addition, while flushing this line, a previously unknown drain line was discovered that led from the drain easement into the wetlands area of concern. The inlet of this pipe was found to be covered over with several feet of silt and therefore non-operational. Upon clearing this "new" drain pipe and inlet, the water that had ponded in the wetlands area drained over the course of 24 hours and has remained controlled. The Utilities Division cleared the area around the inlet and installed a new grated cover on the pipe in order to maintain it in the future.

In addition, the Highway Division re-set the granite curbing on Rokeby Road to close off openings in the curb area and prevent water from the wetlands from easily spilling out onto the cul-de-sac. The Utilities Division is also working with the most affected abutter to best direct groundwater in her yard into the drainage easement areas. We believe these steps will provide a significant improvement in the stormwater management of this neighborhood.

Respectfully,

David F. Turocy
Interim DPW CommissionerCC: Robert R. Rooney, Chief Operating Officer
Fred Russell, Director of Utilities

From: ~~Mit <[redacted]>~~
To: Maureen Reilly Meagher <[redacted]>
Subject: Re: Question
Date: Sun, May 15, 2011 8:40 pm

The wetlands behind our house is dry, there is still a small marsh behind sasha's house. There is much less water quite dry and definitely no water in my basement. Only water pumps from the sump in the garage during the rain, which I think is from the sloping driveway. I think there is less water in the wetlands because sasha's house which use to pump constantly there, he has now diverted to the front and this water now drains across the road which has created a new marsh on the river's side. Maybe there is less water coming from rokeby, but your place maybe a better judge of that. However the volume of water this year is nothing like last year.

So I'm not really sure if the work that was done has helped or not, or whether a combination of various individual water mitigation efforts have helped overall.
Minh Tam Truong

On May 13, 2011, at 7:12 PM, Maureen Reilly Meagher <[redacted]> wrote:

- > Hi Minh,
- > I read Brian's letter and Dave Turocy's response.
- > Have you walked in the back of your yard to see if there is a noticeable change in the volume
- > of water?Mr Turocy describes project as drainage improvement.I am not aware of any new engineering that has been introduced.Are you? There has been a repair and jetting of pipe at the end of Rokeby,and clearing of blockage to newly discovered inlet pipe.This might be culvert pipe that Tom Daley referred to at meeting in front of Ms.Johnson's committee last year.
- > Do you know where it is located?It would be good to know where it is and how it is designed to function.
- > It will be interesting to see how much water is held during rain events next week.
- > M
- >
- > Sent from my iPad

17 MAY 25 A 11:56
CITY CLERK
NEWTON, MA 02159

From: Cecily Grable <cograble@comcast.net>

To: ~~smoody@tda.com; haward@tda.com; cecilygrable@comcast.net; mitch@comcast.net; clement@comcast.net~~

Subject: Laura Road

Date: Tue, Jun 22, 2010 6:35 pm

Dear Neighbors,

I wrote the following after the June 14th meeting because I was troubled by the assumption I thought was expressed by Maria Rose. I didn't send it to her because I wanted to discuss these issues with you and think about it some more. Life has intervened however, and I didn't do thatuntil today when I happened to catch two of you out on a walk. At the moment, I'm thinking that I'd like to discuss the "bowl" and the "cleanup" of the wetlands at a meeting with Ms Phelps and Ms Rose. Any comments will be appreciated..but I will be away until after the 4th and will probably be unable to respond until then.

Cecily

Dear Ms. Rose,

Thank you for taking the time to talk to me on site at the Laura Road Development last week and for your comments during the Zoning and Planning Committee Meeting on June 14. You were very effective in clarifying the situation for everyone present.

I have been thinking about your statement that "the area (between #386 and #342 Quinobequin Rd) has always been a wet bowl since before the houses on Laura Road were built".

To my experience, this is not completely true. In those days, the "bowl" was certainly a wet place, but water flowed behind all of our houses in the wet seasons. Water accumulated at a low place at the base of what was then my driveway.(a spot that shows on the old maps as the junction of Quinobequin and the "paper street" Irwin Road). The "bowl" was much smaller then and always dried up in the drier months.

I have photos that show water flowing between my house and my next-door neighbor from the "bowl" area directly to Quinobequin during the wettest part of the of the March, 2010 storms. That was the first time, since I moved here in 1969, that it ever happened. And, oddly enough, the pipe that goes under Laura Rd near my garage was barely wet at all. You and I observed this phenomenon last week. The "bowl " has greatly enlarged over time and has become a scum -covered lake (and has not dried up at anytime for at least 5 years). Shortly after a rainstorm is over, the pipe under Laura Road is nearly dry.

In 1998, only a few years after Laura Road was built, water was usually flowing through that pipe. In the mid-June storm of that year (many inches of rain in 4-5 hours), my basement was destroyed by storm drain and sewer backup; not because of water leaking through the foundation from flooded ground. Others in my area were affected but only in a minor way, and there was no visible accumulation in the "bowl" area even on the day after the storm.

For hundreds of years, water has flowed from the highland which is now Waban Ave, Irving Road and Crofton Road downhill to the Charles River. I believe that everyone involved in the Laura Road Development failed to understand the massive obstruction to the natural water flow it presented. Over the last 12 years, the path of least resistance for the water flow has moved in a westerly direction, where it accumulates if an ever- enlarging "bowl" and never reaches the pipe under Laura Road which was designed to help drain the area. In the recent storms of 2010 that "bowl" overflowed and created havoc in the basements of the low-lying houses on Quinobequin.

So my questions to you are;

Is it possible that the above helps to explain what is happening in my neighborhood now?

If so, is there a way to prove that this is what is happening? Can it be fixed?

Can anyone be held responsible, this many years after the road and houses were built?

I will greatly appreciate any comments you are willing to make on this issue.

Cecily Grable
386 Quinobequin Road
Waban, MA 02468

11 MAY 25 A 11:56
CITY CLERK
NEWTON, MA 02459

Therefore, the Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - (a) the work is a maintenance dredging project as provided for in the Act; or
 - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Commission on the form at the end of this Order prior to commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
"Massachusetts Department of Environmental Protection,
File Number 239-274"
10. Where the Department of Environmental Protection is requested to make a determination and to issue a superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.

*Construction
Inspection
Copy.*

239-274

11. Upon completion of the work described herein, the Applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.

12. The work shall conform to the following plans and special conditions:

Plans

<u>Title</u>	<u>Dated</u>	<u>Signed and Stamped by</u>	<u>On File with</u>
"Definitive Subdivision Plan"	8-2-94	Otte & Dwyer, Inc. P.L.S.	<u>Conservation Commission</u>
"Grading Plan"	9-21-94	H. W. Moore Associates, Inc. Engineers & Planners	<u>Inspectional Services Dept.</u>
"Plan Profile"	9-21-94 ^{10/25/94}	H. W. Moore, Inc.	<u>Engineering Department</u>
"Details #1"	9-21-94	H. W. Moore, Inc.	<u>Public Works Department</u>
"Details #2"	9-21-94	H. W. Moore, Inc.	<u>and with the Department of Environmental Quality Engineering in Woburn</u>

+ Exh. 1 Topo 7/12/93 Rev. 8/30

Special Conditions

13. Before commencement of any other work on the Project 239-274 site, a siltation fence and any necessary hay bales shall be erected between the bordering vegetative wetland and the construction area in order to protect the resource area and confine refuse and other materials within the construction area.

14. The Conservation Commission Office shall be notified at 552-7135, extension 112, that the siltation fence installation and hay bales cited in Condition #13 are ready for inspection before commencement of any other work on Project 239-274.

(Leave Space Blank)

239-274

15. Applicant shall apply to the U. S. Army Corps of Engineers for a determination whether the Corps Engineers has jurisdiction over the project. In the event jurisdiction exists and the Corps of Engineers imposes legally enforceable conditions which require an amendment to the Notice of Intent and Order of Conditions, the Applicant shall file for an amended Order. The Applicant shall file the Corps of Engineers' responses with the Conservation Commission.

Done
Received
8/15/95

16. Pursuant to Condition #3 of this Order, no work shown on the Definitive Subdivision Plan and the cited plans within Condition #12 shall commence until the said plans have the written approval of the Board of Survey and of the City Engineer.

Done
Received
8/15/95

17. Pursuant to Condition #3 of this Order, only the intent of Applicant's submittal of the Cross Section Supplements to the Subdivision Plan of Irwin and Laura Roads are approved by the Conservation Commission.

~~What mean?
Nuclear -
only if Board
approve?
New street
to come?~~

18. Project 239-274 is subject to the replication and restoration procedures and the Applicant must submit a detailed wetland replication plan for approval by the Conservation Commission and the City Engineer prior to the commencement of any work on the site. The wetlands replication plan shall include a detailed tree inventory within the Bordering Vegetative Wetland and any areas to be disturbed by the Applicants' project. [Redacted]

Submitted
12/1/94
never
approved.
Approved 9/28

19. Prior to commencement of any work on the Project 239-274 site, Applicant shall have a registered land surveyor locate and stake the right-of-way. Applicants shall [Redacted], [Redacted] walls and [Redacted] solely within the right-of-way of the proposed Irwin and Laura Roads, except where the adjoining land is the Applicant's, and so long as said fill or excavation is reflected in the Plans filed with the Conservation Commission and cited in this Order of Conditions.

after
reply
&
prior
roads

20. This Order is applicable to the three proposed building Lots 1, 2, and 3 cited in the subdivision plans, provided that the Applicant submits final site plans to the Conservation Commission for review and approval prior to construction of each dwelling. The site plans shall include individual drywells and/or french drains for all roof downspouts.

239-274

21. Applicant shall perform a camera survey under the supervision of the City Engineer of the interior of the existing City storm drain pipe or culvert connecting between Rokeby Road and the Charles River to determine its condition. If the pipe's condition or segments thereof do not satisfy the City Engineer, Applicant shall repair or replace the pipe or segments thereof to the City Engineer's satisfaction. The Applicant shall promptly file written reports with the City Engineer of the results of the camera survey and of any repairs made to the pipe. The City Engineer shall file his report with the Conservation Commission stating that the camera survey or repairs have been done to his satisfaction. The camera survey and, if necessary, any repairs to and replacement of portions of the pipe shall take place prior to commencement of any construction which would channel new water into the pipe. Prior to and during construction, Applicants shall provide appropriate barriers so that no silt shall enter the pipe.
22. Upon completion of the catch basin inlets in Irwin and Laura Roads, said inlets shall be protected by securely staked hay bales to minimize sedimentation in the Irwin and Laura Roads drainage system.
23. Applicant may grant, with all three parties' concurrence, an easement to the City of Newton or a private easement to William and Barbara Beardslee and their successors and assigns (hereinafter, "Beardslees") for the benefit of the Beardslees so the Beardslees or the City, at the Beardslees' expense, may construct and locate a sewer pipe within said easement to connect the Beardslee residence at #89 Ridge Road southerly to the sewer presently in Rokeby Road or the extension of the sewer within the proposed roadway. Said easement, if accepted by the Beardslees or the City of Newton, shall run in a southerly direction along the westerly lot line of Lot 3 to the sewer in the existing or proposed roadway, whichever may be more convenient. The width of the easement shall conform to the fifteen-foot requirement of the sideyard setback area in Section 30-15 of the Newton Zoning Ordinances.

Done
for
from
Engg
9/19

The Beardslees shall provide the City Engineer and the Conservation Commission with a plan showing said easement in the event of such acceptance. Construction of the sewer within said easement shall be so timed as to take place when the utilities and roadway construction are being performed by the Applicant to minimize any impact upon wetlands, and said construction of the sewer shall be subject to the applicable provisions of G.L. Ch. 131, s. 40 and the Regulations thereunder. All expenses related to said sewer serving the Beardslees, including, but not limited to survey, plans and construction, shall be the Beardslees'.

239-274

24. For the purposes of flood control and wetland preservation, the Applicant shall provide a permanent bar to any development of the wetlands portion of Lot 3 and all of Lot 4. This would be accomplished by grant to the City of Newton, a conservation restriction pursuant to G.L. Ch. 184, s. 32. If the City of Newton refuses to accept, or if the Executive Office of Environmental Affairs refuses to approve said Conservation Restriction in perpetuity, then a Conservation Restriction pursuant to G.L. Ch. 40, s. 8(c) shall be granted to the Newton Conservation Commission or a non-statutory conservation restriction shall be placed on the deeds of Lot 3 and Lot 4.
25. To control erosion and sedimentation on the Project 239-274 site, all disturbed slopes outside building perimeters of the three proposed house lots shall be protected if they are to be left without vegetation treatment or other permanent stabilization longer than fifteen (15) calendar days.
26. After completion of fine-grading and final wetlands replication work and any other landscape work all drain structures constructed in Irwin and Laura Roads shall be finally cleaned of all debris and left in full working condition.
27. For the protection of vegetation on the Irwin Road subdivision, no salt or other deicing chemicals shall be applied to paved areas. This condition shall not expire at the end of the Project 239-274 work nor with the issuance of a Certificate of Compliance for said work.
28. All Project 239-274 materials not to remain on Applicant's premises shall be removed from said premises and disposed of in a legal manner.
29. A detailed drawing of all retaining walls shall be submitted to the City Engineer for review and approval.
30. Issuance of this Order of Conditions does not preclude the dimensional requirements of the Zoning Ordinance including Section 30-5 (b) (4) for special permit requirements for a change in grade of more than three feet, nor does this Order preclude any controls or rights of the Metropolitan District Commission with regards to Quinobequin Road or the Charles River Reservation.
31. The foregoing conditions notwithstanding, the Applicant shall see that throughout the construction period for Project 239-274, all measures necessary to prevent any damage or alteration to the existing bordering vegetated wetland or floodplain not detailed in the submitted plans are taken and should any damage occur during the course of the work on the Project 239-274 premises, the Applicant shall be responsible for and bear the full cost of restoration of the wetland or floodplain to the satisfaction of the Conservation Commission and the Engineering Department.

*Draft
Received
11/23/94*

*Done
Approved
12/18/95
by eng*

X

X

239-274

32. During the construction period and prior to issuance of a Certificate of Compliance, members and agents of the Conservation Commission shall have the right to inspect the Applicant's Project 239-274 work to evaluate compliance with the herein cited PLANS and with these conditions. X
33. The Conservation Commission shall be given the name and telephone number of Applicant's superintendent, or clerk of the works, for Project 239-274. Done
letter of
8/7/95

Issued By Newton Conservation Commission

Signature(s) [Handwritten Signatures]

For the Newton Conservation Commission: Robert D. Merryman
This order must be signed by a majority of the Conservation Commission.
Wetlands/Floodplain Administrator

On this 12th day of October 19 94, before me
personally appeared Robert D. Merryman, to me known to be the
person described in and who executed the foregoing instrument and acknowledged
that he/she executed the same as his/her free act and deed.

[Handwritten Signature]
Notary Public

February 2, 2001
My commission expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CHR 10.03(7), within ten days from the date of issuance of this determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the Newton Conservation Commission prior to commencement of work.

To Newton Conservation Commission & Inspectional Services Dept. Issuing Authority

Please be advised that the Order of Conditions for the project at Irwin/Rokeby Roads, Waban, MA 02168
Sec. 55, Block 38, Lots 8, 9, 10, 16, 17, 18, & 21

File Number 239-274 has been recorded at the Registry of Middlesex (South) and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on

October 28, 1994.

If recorded land, the instrument number which identifies this transaction is 543

If registered land, the document number which identifies this transaction is _____

Signature Stephen J. Buschbeinder, Attorney for Applicant